

## **REMARKS**

This Amendment is in response to the Office Action mailed December 12, 2007. With this amendment claims 1, 4, 9, 11, 17, 19, 24, 26 and 31 are amended, claim 2 is cancelled, and the remaining claims are unchanged. Reconsideration and withdrawal of the rejections are respectfully requested in view of the following remarks.

### **I. Interview Summary**

On February 20, 2008 a telephonic interview was conducted between the undersigned (Nathan M. Rau) and the Examiner (Alan Chen) of the present Application. In the interview the claims and the prior art were discussed. In response to the comments received from the Examiner during the interview the Applicant amends the claims in accordance with the discussion and as shown in the present amendment. The Applicant wishes to thank the Examiner for taking the time to discuss the claims, and looks forward to working with the Examiner in the future.

### **II. Brief Description of the Amendments**

Claim 1 has been amended to include the limitations that were previously found in dependent claim 2 and to include reference to the server testing controller that is located remote from the testing module. Support for this amendment can be found at least at paragraph 22 of the Specification. Claims 4, 11, 19 and 26 have been amended to more clearly describe the delay on the network communications. Independent claims 9, 24 and 31 have been amended to include limitations similar to that included in amended claim 1. Claim 17 has been amended to change the word "to" to "through" to more clearly describe that the server testing controller is remote from the test control. Claim 30 has been amended to correct a typographical error discovered during a review of the claims. No new matter is presented. Entry of these amendments is respectfully requested.

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### **III. Rejections under 35 U.S.C. §103**

In item 4 of the Office Action the Examiner rejected claims 1-31 under 35 U.S.C. §103(a) as being unpatentable in view of Somasegar et al., U.S. Patent No. 5,862,362 (hereinafter “Somasegar”) in view of Mahlingam et al., U.S. Patent No. 6,105,151. The Applicant has reviewed the cited references and in light of the present amendments must respectfully disagree.

Prior to discussing the rejections in greater detail, the Applicant notes that the Examiner provided a detailed rejection of claims 1-8 and then asserted that claims 9-31 were significantly similar, and therefore the rejections for claims 1-8 are applied accordingly. While claims 9-31 may contain significantly similar limitations, the Applicant respectfully submits that there are features and limitations in these claims that may not have been considered by the Examiner. However, in the interest of promoting the prosecution of this Application the Applicant will attempt to apply the references as cited by the Examiner to these claims. If the Examiner disagrees with how the Applicant has applied the references to the unexamined claims, the Applicant respectfully requests that the Examiner contact the undersigned to discuss prior to issuing the next communication.

#### **A. Independent Claims 1, 9, 24 and 31**

Claim 1 has been amended to include the limitations found in original claim 2. Thus, the Applicant assumes that the grounds of rejection used in claim 2 would now apply to amended claim 1. Hence, the Applicant will address the rejections of claims 1 and 2 together. Claim 1 as amended recites “a test control component for selectively disabling the second network adapters to create failure of physical connections between the second network adapters and the respective network servers in the private network connected thereto, , the test controller further including a third network adapter for connecting the test control component to a server testing controller on the external network to allow the test control component to communicate with the server testing

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controller.” Claims 9, 24 and 31 as amended contain similar limitations. The Office Action asserted that this was disclosed by elements 120 and 66 and column 7 lines 34 to column 8 line 15 of the Samasegar reference. The Mahlingam reference was not asserted with respect to this element of the claims.

Samasegar discloses a network failure simulator. The network failure simulator of Samasegar operates within the computer having the NDIS layer. It is at this layer that the failures are simulated. However, there is no disclosure in the Samasegar reference that the simulator is connected in any way to an external network, let alone connected through a third network adaptor as recited in amended claim 1. Further, there is no disclosure in the Somasager reference that the simulator communicates with devices on the external network. The portion of Somasager asserted as disclosing this feature refers to the substitute handlers within the simulator inserting code into the packet before returning the packet to the NDIS layer for completion of the transaction. In other words, a packet is received at the NDIS layer and is hooked by the simulator. The simulator then modifies the packet in some manner and returns the packet to the NDIS. This is all handled internally without any communication with the external network. Therefore, it is respectfully submitted that the Somasager reference does not disclose nor does it suggest this feature of claim 1. The Mahlingam reference does not remedy this deficiency. Thus claim 1, as amended is believed allowable over the combination of Somasager and Mahlingam. Further, as independent claims 9, 24 and 31 have been amended to contain similar limitations they are believed allowable for the same or similar reasons. Dependent claims 3-8, 10-16, and 25-30 are believed allowable as well, at least by virtue of their dependency from allowable independent claims. Reconsideration and withdrawal of the rejection are respectfully requested.

#### **B. Dependent claims 4, 11, 19 and 26**

Claim 4 as amended recites “wherein the switching component is programmed to provide a preselected delay to network communication data passing therethrough.” The Examiner asserted that Somasager disclosed this feature inherently, because “the

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switching and testing components are added as intermediate items between the source and destination devices, thereby incurring delay.” While the Examiner may be correct in the assertion that there is a delay present in Somasager it is clear from the disclosure of Somagaser that there is no preselected delay provided as part of a communications test condition. Mahlingam does disclose a predefined delay period. However, this predefined delay period is associated with how long the system waits before switching from one interface card to another interface card when a failure occurs. There is no teaching or suggestion in either Somasager or Mahlingam to introduce a delay in the network communication data when creating a communication test condition. Thus claim 4 is believed allowable over the combination of Somasager and Mahlingam. Further, claims 11, 19 and 26 include similar limitations and are believed allowable over the combination Somasager and Mahlingham for the same or similar reasons. Reconsideration and withdrawal of the rejection are respectfully requested.

#### **C. Dependent claims 6, 13, 21 and 28**

Claim 6 recites “wherein the switching component is programmed to reorder data in a communication stream passing therethrough.” The Examiner asserted that Somagaser disclosed this feature at column 4 lines 25-35. However, the cited section of Somagaser only discloses that the packets are numbered to ensure they are received in the proper order. The Somagaser reference does not disclose, teach or suggest reordering these packets. Ordering of packets is not the same thing as reordering packets. The Mahlingam reference is completely silent with respect to this element. Therefore, it is respectfully submitted that neither Somagaser nor Mahlingam teach, suggest, or disclose this feature of the claim 6. Claims 13, 21 and 28 contain similar limitations as claim 6 and are believed allowable as well for the same or similar reasons. Reconsideration and withdrawal of the rejection are respectfully requested.

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#### **D. Independent claim 17**

Claim 17, as amended, recites “a server testing controller connected through the external network for coordinating testing of the network servers... to create failures of physical connections between the network adapters and the network servers in the private network connected thereto.” The Examiner made no reference to this element in the rejections of the Office Action. The only reference made in the Office Action was that the grounds applied to claim 1 were apparently applied to claim 17. However, as discussed above there is no reference made in the Somagaser reference that the simulator is in communication with the external network. Further, there is no reference in the Somagaser reference that there is any coordination of testing of the network servers. Additionally, the Somagaser reference does not disclose that the simulator instructs clients on the external network to send data to the servers on the private network. Thus, the Somagaser reference does not disclose this element of claim 17. The addition of the Mahlingam reference does not remedy this deficiency. Therefore, it is respectfully submitted that neither Somagaser nor Mahlingam taken singly or in combination teach or suggest the features of claim 17 in its entirety. Thus claim 17 is believed allowable over the cited references. Further, dependent claims 18-23 are believed allowable as well, at least, based on their dependency from claim 17. Reconsideration and withdrawal of the rejection are respectfully requested.

#### **IV. CONCLUSION**

Accordingly, in view of the above amendment and remarks it is respectfully submitted that the present claims are allowable over the prior art and that the rejections to the pending claims have been overcome. Reconsideration and allowance of the pending claims are respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

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If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,  
Microsoft Corporation

Date: March 12, 2008

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